



# NEWS

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## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF NOVEMBER 13, 2000**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#00-141 Filarsky v. Superior Court, S091308. (B139018; 82 Cal.App.4th 1057.)

Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. The court specified for review a variety of issues concerning whether a public agency may initiate a declaratory relief action regarding the agency's obligation to disclose public records to a member of the public who has made a request for such records pursuant to the California Public Records Act (Gov. Code, § 6250 et seq.) and whether the provisions of Government Code section 6258 and 6259, pertaining to appellate review, attorney fees, and costs, apply to such an action for declaratory relief.

#00-142 Great Western Shows, Inc. v. County of Los Angeles, S091547. (9th Cir. No. 99-56605, \_\_\_ F.3d \_\_\_.) Request by the United States Court of Appeals for the Ninth Circuit for the answer to certified questions of state law pursuant to rule 29.5 of the California Rules of Court. The certified questions, as restated by the court, are (1) Does state law regulating the sale of firearms and gun shows preempt a municipal ordinance prohibiting gun and ammunition sales on county property?" and (2) "May a county, consistent with Article 11, § 7, of the California Constitution, regulate the sale of firearms and ammunition on its property located in an incorporated city within the borders of the county?"

(over)

#00-143 Nordyke v. King, S091549. (9th Cir. No. 99-17551; \_\_\_ F.3d \_\_\_.)

Request by the United States Court of Appeals for the Ninth Circuit for the answer to a certified question of state law pursuant to rule 29.5 of the California Rules of Court. The certified question is "Does state law regulating the possession of firearms and gun shows preempt a municipal ordinance prohibiting gun possession on county property?"

#00-144 Jimenez v. Superior Court, S091453. (D034723; 82 Cal.App.4th 856.)

Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case concerns whether the producers of defective products installed as components of mass-produced homes may be subject to strict products liability.

#00-145 People v. McKay, S091421. (B137511; 82 Cal.App.4th 1279.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The case concerns whether Vehicle Code section 40302(b) permits an officer to make a full custodial arrest of an individual who is unable to produce written evidence of identity upon being stopped for a Vehicle Code infraction that is subject to punishment only by a fine.

#00-146 Ortega v. Kmart, Corp., S091888. (B131083; 83 Cal.App.4th 175.)

Petition for review after the Court of Appeal affirmed a judgment in a civil action. This case concerns whether a store owner may be held liable for injuries to a shopper resulting from a hazardous condition in the store based solely on evidence that the owner did not maintain adequate inspection procedures or whether evidence of the store owner's actual or constructive knowledge of the condition for a sufficient period to permit the owner to remedy the hazardous condition is required.

#00-147 People v. Totari, S091459. (H019719.) Unpublished opinion. Petition for review after the Court of Appeal dismissed an appeal from an order denying a motion to vacate judgment. This case concerns whether an order denying a motion under Penal Code section 1016.5 to vacate a final judgment of conviction and allow withdrawal of a guilty plea is an appealable order.

#00-148 Whitfield v. Heckler & Koch, Inc., S091584. (B134247. 82 Cal.App.4th 1200.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in Merrill v. Navegar, Inc.,

S083466 (#00-08), which concerns whether, in the absence of a special relationship, the victim of a shooting may state a claim against the manufacturer of a legal and nondefective gun based on breach of a claimed duty to use due care not to increase the risk beyond that inherent in the presence of firearms in our society.

## **DISPOSITIONS**

The following cases were dismissed and remanded to the Court of Appeal:

#99-119 People v. Carpio, S079966.

#00-31 People v. Leyran, S085345.